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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Michael G. Jungen

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EXAMINER

PLUCINSKI, JAMISUE A

ART UNIT

PAPER NUMBER

3629

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/754,811	<b>Applicant(s)</b> JUNGEN ET AL.	
	<b>Examiner</b> JAMISUE A. PLUCINSKI	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 40-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20040419</u> .  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-39 in the reply filed on 3/25/09 is acknowledged.
2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. With respect to Claim 4: the phrase "wherein the location is a tour operator" is indefinite. It is unclear to the examiner how a location can be a person.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-26, and 32-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bleser et al. (US 2007/0276753) in view of Hujink (5,181,786).

8. With respect to Claims 1, 10, 24, 33, 35, 36, 37 and 39: Bleser discloses the use of a method and system, for offering for sale at a remote location, programmable cards comprising:

- a. Providing programmable media at a location remote from use (Abstract);
- b. Assigning an identification number to each media (Paragraph 0015);
- c. Assigning a cost to the card (See Paragraph 0018)
- d. Offering the media for sale at a retail location (Paragraph 0014); and
- e. Registering the identifying number on the media with a database (Paragraph 0015).

9. Bleser discloses the use of gift cards which is sold at a retail location and can be in the form of a magnetic card or a smart card, however fails to disclose the card representing an admission to a venue and allowing admission to the venue upon presentation of the media.

Hujink (5,181,786) discloses the use of a method for preparing magnetic cards or smart cards to be used for admission tickets (See abstract), where upon activation the card is registered (Column 3, lines 29-40) and where upon presentation of the card the holder is allowed pre-paid admission to the event or to areas within the event (Column 1, lines 31-39). The sole difference between the primary reference and the claimed subject matter is that the primary reference discloses the sale of gift cards instead of cards which provide admission to a venue. Hujink

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discloses it is known in the art for admission tickets to be in the form of magnetic cards (which are the same type which is sold in Bleser) Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function by in the very combination itself; that is in the substitution of the admission card of Hujink for the gift card of Bleser. Thus the simple substitution of one known element for another producing a predictable result renders the claim obvious. (See KSR [127 S Ct. at 1739] “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).

10. With respect to Claims 2 and 11: See Bleser, abstract.

11. With respect to Claims 3, 4, 12 and 13: Bleser discloses the cards being sold at a retail location, and fail to disclose the location being a vending machine or a tour operator. However, the specific location of where the item is being sold is deemed to be nonfunctional descriptive material and is not functionally involved in the steps recited. The offering, registering and allowing would all be performed the same regardless of where the location is. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

12. With respect to Claims 5, 6 and 14-18: Hujink discloses the cards being used for admission to events, attractions or venues, but fails to specifically disclose the venue is a theme park, a theater, stadium or convention. However, the specific venue of what the admission is to is deemed to be nonfunctional descriptive material and is not functionally involved in the steps

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recited. The allowing admission step would be performed the same regardless of what type of venue it is. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F .2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F .3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

13. With respect to Claims 7, 20 and 32: Bleser discloses the card is a magnetic strip card (Paragraph 0013).

14. With respect to Claims 8 and 21: Bleser discloses the claimed invention except for the programmable media being a card with a barcode. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the programmable media be a card with a barcode, since the examiner takes Official Notice of the equivalence of a card with a magnetic strip and a card with a barcode for their use in the programmable media art and the selection of any of these known equivalents to the barcode would be within the level of ordinary skill in the art.

15. With respect to Claims 9 and 22: Bleser discloses the gift card can also have printed information on it (Paragraph 0018).

16. With respect to Claims 19, 34 and 38: Bleser and Hujink disclose exchanging money for the tickets and fails to disclose the value of admission being free. The examiner takes official notice that the use of free tickets is old and well known in the art. This happens during promotions, such as kids are free, or if you purchase an item tickets are given away free. It also happens for shows such as inside a theme park, where limited seating is available. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, that if admission to an event or attraction is free, then the value would be zero.

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17. With respect to Claim 23: See Bleser, Abstract, and Hujink Claim 1.
18. With respect to Claims 25 and 26: See Bleser, Paragraphs 0019 and 0020.

***Claim Rejections - 35 USC § 103***

19. Claims 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bleser and Hujink as applied to claim 24 above, and further in view of Grimm et al. (US 2002/0116235).
20. With respect to Claim 27: Bleser and Hujink discloses the use of admission cards for admission to an attraction or a venue, However fails to disclose the admission being to a theme park and relating the cost of one or more programs offered at the venue is related to the cost of the visit. Grimm discloses the use of a reservation system/kiosk which allows a user not only to pay for admission to the park, but also look up attractions and pay and load permission of the attractions into the card (See abstract and Paragraphs 0013 and 0022-0025). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Bleser and Hujink to have the venue be a theme park and includes attractions or programs within the park as part of the cost of the day visit, as disclosed by Grimm, in order to allow for presale attraction packages to allow a user to plan and to visit all desired attractions and to provide a system for virtually no waiting for attractions. (See Grimm, pages 1 and 2)
21. With respect to Claim 28-30: See Grimm, Paragraphs 0018-0019 and 0027.
22. With respect to Claim 31: See Paragraphs 0018 and 0038.

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***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawaguchi et al. (7,103,572) discloses the use of a electronic system for purchasing tickets..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamisue A. Plucinski/  
Primary Examiner, Art Unit 3629